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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

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AMERICAN AIRLINES, INC., a Delaware Corporation,)

Plaintiff,)

v.)

EXPEDIA, INC. a Washington Corporation,)

Defendant.)

Case No. 4:18-CV-850-A

**PLAINTIFF AMERICAN AIRLINES, INC.'S
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure and 15 U.S.C. § 1116, Plaintiff American Airlines, Inc. ("American") respectfully requests that this Court enjoin Defendant Expedia, Inc. ("Expedia") from continuing to infringe upon American's federally-registered "AAdvantage" trademarks (the "AAdvantage Marks"). In support of this Motion, American filed a brief and an appendix containing evidence establishing American's right to a preliminary injunction. American also requests that the Court set an evidentiary hearing on this motion to occur on February 25, 2019.

1. American is the world's largest air carrier, serving over 250 destinations in over 50 countries, with nearly 7,000 daily flights. For more than 90 years, American has developed and enjoyed a reputation in the United States and internationally as a premier airline for business and leisure travelers.

2. American was one of the first airlines to feature a loyalty program to reward frequent travelers with special privileges, called "AAdvantage." Since its inception in 1981,

America's AAdvantage program has grown to become the largest airline loyalty program in the world, with over 100 million members. The AAdvantage program has expanded to include loyalty, discount and incentive award programs, as well as transportation and travel related goods and services. American has acquired valuable trademark rights in the AAdvantage Marks.

3. As a result of American's widespread and continuous use, the AAdvantage Marks have acquired substantial goodwill and renown in the marketplace. American generates millions of dollars in annual revenues from goods and services associated with the AAdvantage Marks. American also spends considerable tens of millions of dollars on advertising and building brand loyalty for the AAdvantage Marks. American promotes the AAdvantage Marks on the Internet, via its own websites and through advertising on the websites of third parties, and on television and social media. American enjoys the exclusive right to use the AAdvantage Marks in the United States in connection with loyalty programs, discount programs, incentive award programs, transportation services, and travel related goods and services. One version of American's AAdvantage mark is reproduced below:



4. American's registered AAdvantage Marks include the following:

Mark/Name	Reg. No.	Registration Date	Services
AAdvantage and Design	RN: 15228737	February 22, 1983	(Int'l Class 35) Providing a program of bonus flights for frequent travelers
AAdvantage and Design	RN: 2006172	October 8, 1996	(Int'l Class 35) promoting travel services, credit card use, long-distance service car rentals,

Mark/Name	Reg. No.	Registration Date	Services
			and hotel accommodations through the administration of award programs
AAdvantage	RN: 2187483	September 8, 1998	(Int'l Class: 35) promoting the goods and services of others by means of an incentive awards programs, whereby purchase points are awarded for purchase made from vendor subscribers, which can then be redeemed for merchandise and travel (Int'l Class: 39) providing air transportation services featuring a program of bonus flights for frequent travelers
AAdvantage EXECUTIVE PLATINUM	RN: 2247386	May 25, 1999	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers
AAdvantage EXECUTIVE PLATINUM and Design	RN: 2444458	April 17, 2001	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers
AAdvantage GOLD and Design	RN: 2001368	September 17, 1996	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers
AAdvantage GOLD	RN: 3789842	May 18, 2010	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers
AAdvantage PLATINUM and Design	RN: 1788496	August 17, 1993	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers
AAdvantage PLATINUM	RN: 3789843	May 18, 2010	(Int'l Class: 39) transportation of passengers by air, namely, providing a program of bonus flights for frequent travelers

Mark/Name	Reg. No.	Registration Date	Services
AAdvantage	RN: 4897372	February 9, 2016	<p>(Services covered by the registration include the following in Int'l Class 39) promoting the goods and services of others by means of loyalty program, discount program, and an incentive awards program whereby purchase points are earned or awarded for purchases made from vendor subscribers or travel conducted by member subscribers which cant hen be redeemed for merchandise and travel</p> <p>(Int'l Class 39) air transport of passengers, cargo, and freight; providing travel agency services, namely, providing travel reservation services, namely, coordinating travel arrangements for individuals, providing air transportation reservation services, providing cruise reservation services, and providing vacation reservation services, namely, coordinating vacation travel arrangements for individuals, by means of an incentive rewards program</p> <p>(Int'l Class 43) Providing food and beverage services for others and hotel accommodation services for others by means of an incentive rewards program, namely, providing hotel accommodation reservation services for others and providing restaurant reservation services for others</p>

5. As a result of American's extensive advertising and promotional efforts and its continuous use of the AAdvantage Marks, the AAdvantage Marks are famous, distinctive and widely recognized by the general consuming public of the United States as a designation of source of the involved goods and services.

6. Expedia is an online travel agency that promotes, markets, offers for sale, and sells airline tickets, hotel and car rental reservations and other travel-related services.

7. Expedia is familiar with the AAdvantage Marks, and has acknowledged the AAdvantage Marks in writing. For example, Expedia is a party to the Governing Travel Agency Agreement (“GTAA”). By signing the GTAA, Expedia received limited permission to use American’s trademarks, including the AAdvantage Marks. Expedia also agreed not to harm, challenge American’s ownership of, or in any way contest or deny the validity of, or the right or title of American in or to the AAdvantage Marks, and to refrain from using any intellectual property that is confusingly similar to the AAdvantage Marks.

8. Expedia also signed an Agency Program Agreement (“APA”), which authorizes Expedia to distribute fares for American flights. Under the APA, Expedia specifically acknowledged that it is bound by the intellectual property provisions of the GTAA, and that it will not purchase, use, or register any domain names, keywords or search terms that are identical or confusingly similar to or contain any of the AAdvantage Marks.

9. Despite these written agreements, Expedia recently initiated an advertising campaign built upon the phrase “Add-On Advantage.” Expedia is using the “Add-On Advantage” mark on its website, on social media, in press releases, and in video and television advertising. Expedia also filed two U.S. trademark applications for logo versions of the “Add-On Advantage” mark. In these applications, Expedia declared its intent to use “Add-On Advantage” with the same goods and services that American uses its AAdvantage Marks with.

10. Expedia’s phrase “Add-On Advantage” and its associated logos (collectively, the “Add-On Advantage Marks”) are confusingly similar to the AAdvantage mark.

11. Expedia is currently using the Add-On Advantage Marks in the advertisement, promotion, distribution, and sale of its travel-related goods and services, and is using and registering keywords or search terms incorporating the Add-On Advantage Marks, all of which create a likelihood of confusion with and cause irreparable harm to American's AAdvantage Marks.

12. Expedia's use of a nearly identical mark for closely related (if not identical) services comprises a textbook example of trademark infringement.

13. As more fully set forth in American's Memorandum of Law in Support of Its Motion for Preliminary Injunction ("Memorandum"), American has shown that (1) it is likely to succeed on the merits of its breach of contract and trademark infringement claims; (2) it will continue to be irreparably harmed in the absence of preliminary injunctive relief; (3) the balance of the equities tips in American's favor; and (4) entry of an injunction is in the public interest.

WHEREFORE, for all the foregoing reasons, and for the reasons set forth in its Memorandum, American respectfully requests that this Court preliminarily and permanently enjoin Expedia, its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with them anywhere in the world, from:

- (a) using "Add-On Advantage" and/or the Add-On Advantage Logos in connection with the offering, advertising or promotion of its travel-related goods or services;
- (b) using the word "Advantage" as a trademark, or as part of a trademark, in connection with the offering, advertising or promotion of its travel-related goods or services;
- (c) using "Add-On Advantage" and/or "Advantage" as advertising keywords;

- (d) using "Add-On Advantage" and/or "Advantage" in a way that could weaken the distinctiveness of the AAdvantage Marks in the marketplace;
- (e) using "Add-On Advantage" and/or "Advantage" in a way that is likely to cause the consuming public to believe that Expedia's services are authorized by American or in some way connected to or affiliated with American;
- (f) using "Add-On Advantage" and/or "Advantage" in a way that is likely to injure or damage American or the AAdvantage Marks; and
- (g) attempting, causing, or assisting any third party to engage in any of the above-described acts.

Respectfully submitted,

Dated: November 15, 2018


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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF CONFERENCE

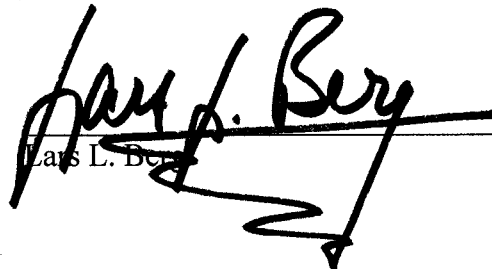
I certify that on the 14th day of November, 2018, I conferred by phone with Alan Wright, and he stated that Expedia opposes American's motion for preliminary injunction.



Alan L. Berg

CERTIFICATE OF SERVICE

I certify that on the 15th day of November, 2018, a true copy of the foregoing was served upon all counsel of record via the Court's CMECF system.



Alan L. Berg